

ENTERED

July 29, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

ASHLEY LUHELLIER

Plaintiff.

VS.

OYSTER CREEK, TX, ET AL.

Defendants.

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CIVIL ACTION NO. 3:18–CV–00281

**ORDER ADOPTING MAGISTRATE JUDGE’S
MEMORANDUM AND RECOMMENDATION**

Pending before the Court is Plaintiff’s Response in Opposition to Memorandum and Recommendation (“Objections”). Dkt. 59. On June 4, 2019, United States District Judge George C. Hanks, Jr. referred several motions to dismiss to Magistrate Judge Andrew M. Edison pursuant to 28 U.S.C. § 636(b)(1)(B). *See* Dkt. 54. On July 10, 2019, Judge Edison filed a Memorandum and Recommendation (Dkt. 58) recommending that the pending motions to dismiss be granted and this suit be dismissed.

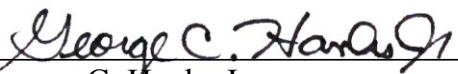
On July 24, 2019, Plaintiff filed her Objections. In accordance with 28 U.S.C. § 636(b)(1)(C), this Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* FED. R. CIV. P. 72(b)(3).

The Court has carefully considered the Objections; the Memorandum and Recommendation; the pleadings; and the record. The Court **ACCEPTS** Judge Edison's Memorandum and Recommendation and **ADOPTS** it as the opinion of the Court. It is therefore **ORDERED** that:

- (1) Judge Edison's Memorandum and Recommendation (Dkt. 58) is **APPROVED AND ADOPTED** in its entirety as the holding of the Court;
- (2) Defendant Oyster Creek's Opposed Motion to Dismiss (Dkt. 16) is **GRANTED**;
- (3) Defendant Stephen Heckler's Motion to Dismiss for Failure to State a Claim or, Alternatively, to Compel a Reply to Immunity (Dkt. 42) is **GRANTED**;
- (4) Defendant Village of Surfside Beach's Motion to Dismiss for failure to State a Claim (Dkt. 43) is **GRANTED**;
- (5) Defendant Gary Phillips' Motion to Dismiss for Failure to State a Claim or, Alternatively, to Compel a Reply to Immunity (Dkt. 45) is **GRANTED**; and
- (6) Luhellier's suit is **DISMISSED for failure to state a claim**.

It is so **ORDERED**.

SIGNED at Galveston, Texas, this 29th day of July, 2019.



George C. Hanks Jr.
United States District Judge